

~~SECURITY INFORMATION~~

OGC REVIEW COMPLETED

15 September 1953

MEMORANDUM FOR: Acting Deputy Director (Administration)

SUBJECT : Request for Funds

REFERENCES : (a) Memorandum dated 17 August 1953 from DC/PAD to DD/A, subject as above

(b) Memorandum dated 9 September 1953 from AC/PAD to General Counsel, subject as above

1. There are returned herewith References (a) and (b), the latter originating by virtue of a request to PAD to submit additional information concerning the utilization of [redacted]. Since this type of case is inherently troublesome because of the Dual Compensation Statutes, the concurrence of this Office is forwarded with comments.

STATINTL

2. Briefly, it can be stated that the use of [redacted] is essential to the development of a political action project on an emergency basis; that the activity of [redacted] for, and in behalf of the Agency, is separate and distinct from the duties required of him in his full-time employment by the Army Map Service; that the sum involved is not subject to admeasurement because of time or other factors; that is, it is kindred to a fee arrangement.

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3. The principal provisions of the Dual Compensation Statutes are found in 5 U.S.C. 58, 62, and 70. Decisions construing these statutes have consistently held that compensation computed on a time basis is "salary" as used in 5 U.S.C. 58 regardless of the time measurement used. It has also been held that employment on a fee or contract basis is not appointment to an "office" to which compensation is attached within the contemplation of 5 U.S.C. 62. In addition, it has been held that the holding of two offices under the Government is not prohibited where the two are not incompatible. U.S. v. Saunders, 120 U.S. 126.

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[redacted]

5. This Office will be pleased to assist further, if necessary.

STATINTL OGC:[redacted]/tkl
(14 Sept. 53)

STATINTL

cc: OGC chrono
OGC subj - 332-B

[redacted]
Assistant General Counsel

2 Att - Ref (a) & (b)

~~SECRET~~